

Rose Crellin at (202) 418-1571 or Kevin Werbach at (202) 418-1597, Policy and Program Planning Division, Common Carrier Bureau.

SUPPLEMENTARY INFORMATION: This is a summary of the Common Carrier Bureau's Memorandum Opinion and Order, DA 95-36, adopted January 11, 1995 and released January 11, 1995. The full text of this decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 239), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., 2100 M Street NW., Suite 140, Washington, DC 20037.

Summary of Memorandum Opinion and Order

1. In the Computer III proceeding, beginning with the Phase I Order (51 FR 24350 (July 3, 1986)), the Commission reversed its earlier decision to require the Bell Operating Companies (BOCs) to establish structurally separate subsidiaries for the provision of enhanced services. Enhanced services use the existing telephone network to deliver services—such as voice mail, E-Mail, and gateways to on-line databases—beyond a basic transmission offering. The commission established a two-step process in Computer III for the removal of structural separation restrictions. Initially, BOCs were permitted to offer individual enhanced services on a structurally integrated basis once they had received FCC approval of service-specific Comparably Efficient Interconnection (CEI) plans. Those plans were required to detail how the BOCs would make the underlying network services used by their own enhanced service offerings available to competing enhanced service providers (ESPs) on an equal access basis.

2. In the second stage of Computer III, BOCs were required to develop Open Network Architecture (ONA) plans detailing how they would unbundle and make available basic network services, and describing how they would comply with other nonstructural safeguards. Upon FCC approval of the initial BOC ONA plans, the remaining structural separation requirements were to be lifted. Following a remand from the Court of Appeals for the Ninth Circuit, the Commission strengthened and reaffirmed its regime of nonstructural safeguards in the 1991 BOC Safeguards Order (57 FR 4373 (February 5, 1992)). Between 1992 and 1993, the Common Carrier Bureau granted full structural relief to the BOCs upon a showing that

they had complied with the requirements of the BOC Safeguards Order, and those decisions were subsequently ratified by the Commission.

3. In October 1994, the Ninth Circuit partially remanded the BOC Safeguards Order. The court concluded that the Commission had scaled back its conception of ONA, and had not explained how the more limited version of ONA represented in the approved BOC ONA plans provided sufficient protection to justify fully lifting structural separation. In light of this decision, on November 14, 1994, the BOCs jointly filed a petition for an interim waiver (BOC Petition). The BOC Petition requested permission to continue offering existing enhanced services on a structurally integrated basis; to continue integrated research, development, and market trials; and to offer new integrated enhanced services associated with video dialtone service offerings.

4. In this Memorandum Opinion and Order, the Common Carrier Bureau (Bureau) clarified the requirements that will govern BOCs' enhanced service offerings, pending further Commission action on remand, and issued an interim waiver. Specifically, the Bureau concluded that, after the partial remand of the BOC Safeguards Order, the BOCs may generally provide enhanced services that comply with the CEI plan regime in effect before the Commission completely lifted structural separation requirements. The Bureau granted the BOCs a limited waiver to continue providing those enhanced services that they first offered after the CEI plan approval requirement had expired, conditioned on their filing CEI plans for those services within sixty days after the release of the waiver order. The Memorandum Opinion and Order also granted the BOCs a limited waiver to continue existing market trials initiated after the expiration of the CEI plan approval requirement, conditioned on the BOCs' filing market trial notifications within sixty days after the release of the waiver order. To the extent that the decision remanding the BOC Safeguards Order might be regarded as returning regulation to the Computer II framework of full structural separation, the Memorandum Opinion and Order granted the BOCs limited waivers of the Computer II structural separation requirements.

5. The Bureau concluded that the safeguards provided by the CEI plan regime would protect against potential anticompetitive conduct by the BOCs during the pendency of remand proceedings. The Memorandum

Opinion and Order noted that the BOCs currently offer enhanced services on an integrated basis to approximately five million customers, and determined that service disruptions and customer confusion were possible in the absence of a waiver. The Bureau observed that it had granted a similar waiver following the first remand of Computer III in 1990, and that waiver was not subsequently challenged before the Commission or in court. Given these considerations, the Bureau determined that it would be in the public interest to provide the BOCs with a limited waiver to allow them to offer integrated enhanced services subject to defined safeguards until the Commission acted on remand.

6. Accordingly, the Bureau granted any necessary waivers to enable the BOCs to: (1) Provide existing enhanced services pursuant to CEI plans approval prior to the lifting of structural separation; (2) continue providing other existing enhanced services, pending Commission consideration of CEI plans for those services; (3) file CEI plans for any new enhanced services; (4) continue to perform research and planning activities and technical trials for enhanced services; (5) continue existing market trials, conditioned on their filing the market trial notifications required under the CEI plan regime; and (6) begin market trials of new enhanced services pursuant to the market trial requirements of the CEI plan regime. The Bureau declined to treat video-dialtone-related enhanced services differently from other new enhanced services.

Ordering Clauses

1. Accordingly, IT IS ORDERED that pursuant to §§ 0.91, 0.291, and 1.3 of the Commission's Rules, 47 CFR §§ 0.91, 0.291, and 1.3, the BOC Joint Contingency Petition for Interim Waiver of the Computer II Rules, IS GRANTED to the extent described herein and otherwise Denied.

2. *It is further ordered* that this order is effective upon issuance of the Ninth Circuit's mandate in California III.

List of Subjects in 47 CFR Part 64

Communications common carriers; Computer technology.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95-2948 Filed 2-6-95; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES
ADMINISTRATIONNATIONAL AERONAUTICS AND
SPACE ADMINISTRATION

48 CFR Part 31

[FAC 90-25; FAR Case 94-750]

Federal Acquisition Regulation;
Technical Correction

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Technical correction.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are issuing a correction to Federal Acquisition Circular 90-25. Text was omitted from 31.205-13(b)(4) which appeared in FAR case 94-750—Entertainment, Gift, and Recreation Costs for Contractor Employees. At 60 FR 3315, January 13, 1995, third column, paragraph 4, in the sixth line from the bottom of the paragraph insert "or prices or rates higher than those charged by Commercial" following "prices,".

DATES: *Effective Date:* January 13, 1995.

Comment Date: Comments should be submitted to the FAR Secretariat at the address shown below on or before March 14, 1995, to be considered in the formulation of a final rule.

ADDRESSES: All interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th and F Sts. NW., Room 4035, Attn: Ms. Beverly Fayson, Washington, DC 20405.

Please cite FAC 90-25, FAR case 94-750 in all correspondence related to this interim rule.

FOR FURTHER INFORMATION CONTACT: Mr. Clarence M. Belton, Team Leader, Cost Principles Team, at (703) 602-2357, in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAC 90-25, FAR case 94-750.

Correction

The corrected third sentence of paragraph (b)(4) of section 31.205-13 should read as follows:

31.205-13 Employee morale, health, welfare, food service, and dormitory costs and credits.

* * * * *

(b) * * *

(4) * * * A loss may be allowed, however, to the extent that the contractor can demonstrate that unusual circumstances exist (e.g., (i) where the contractor must provide food or dormitory services at remote locations where adequate commercial facilities are not reasonably available, or (ii) where charged but unproductive labor costs would be excessive but for the services provided or where cessation or reduction of food or dormitory operations will not otherwise yield net cost savings) such that even with efficient management, operating the services on a break-even basis would require charging inordinately high prices, or prices or rates higher than those charged by commercial establishments offering the same services in the same geographical areas.

* * *

Dated: February 1, 1995.

Edward C. Loeb,

Deputy Project Manager for the Implementation of the Federal Acquisition Streamlining Act of 1974.

[FR Doc. 95-2875 Filed 2-6-95; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs
Administration

49 CFR Part 192

[Docket No. PS-126; Notice 3]

RIN 2137-AB71

Passage of Instrumented Internal
Inspection Devices; Limited
Suspension of Compliance Dates

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Limited Suspension of Enforcement for compliance with final rule.

SUMMARY: By final rule published April 12, 1994, RSPA required that new and replaced pipeline facilities be constructed to accommodate inspection by instrumented internal inspection devices commonly known as "smart pigs." Two petitioners requested reconsideration of that rule as it applies to gas pipelines and a stay of the compliance date. In response to these petitions, RSPA issued a Notice of Proposed Rulemaking (NPRM) proposing to modify the rule and extend the compliance dates with respect to certain gas transmission lines. Because of the need to evaluate the numerous comments to proposals in the NPRM,

RSPA is unable to complete rulemaking action on that notice by the proposed compliance date with respect to gas transmission lines in less populated areas. This document announces a suspension of enforcement for compliance with the final rule requirements for certain gas transmission lines.

EFFECTIVE DATE: January 30, 1995.

FOR FURTHER INFORMATION CONTACT:

Albert C. Garnett, (202) 366-2036, Office of Pipeline Safety, regarding the subject matter of this notice, or Dockets Unit, (202) 366-5046 for copies of this notice or other materials in the docket.

SUPPLEMENTARY INFORMATION: On April 12, 1994, RSPA published a Final Rule "Passage of Internal Inspection Devices" (59 FR 17275) that required certain new and existing pipelines on which replacements are made to accommodate the passage of smart pigs. On May 4, 1994, the Interstate Natural Gas Association of America (INGAA) filed a "Request for a Stay of the Effective Date [May 12, 1994] of the Final Rule; Passage of Instrumented Internal Inspection Devices." Also, on May 10, 1994, INGAA filed a "Petition of Reconsideration of the Final Rule; Passage of Instrumented Internal Inspection Devices." Additionally, on May 10, 1994, the American Gas Association (AGA) filed a "Request for Administrative Stay of the May 12, 1994 effective date and Petition for Reconsideration of RSPA's Final Rule on Passage of Instrumented Internal Inspection Devices."

On May 12, 1994, RSPA advised INGAA, AGA and the American Petroleum Institute that, until further notice, it would not enforce the requirement that gas and liquid operators remove all obstructions in the "line section" that prevent the passage of smart pigs whenever, the line pipe, valve, fitting or other line component is replaced. However, RSPA stated that the suspension did not effect the requirement, effective on May 12, 1994, that operators design and construct certain new onshore and offshore pipelines or the actual line pipe, valve, fitting or other component replaced to accommodate smart pigs.

On September 30, 1994, RSPA published an NPRM (Notice 2) "Passage of Instrumented Internal Inspection Devices" (59 FR 49896) that responded to the requests and petitions from the two gas pipeline associations. In Notice 2, RSPA: (1) Stated that its May 12, 1994, suspension (above) of enforcement with respect to hazardous liquid and carbon dioxide pipelines was lifted effective September 30, 1994, and